

COUNTY OF YORK

MEMORANDUM

DATE: July 9, 2004 (PC Mtg. 7/14/04)

TO: York County Planning Commission

FROM: Earl W. Anderson, Planner

SUBJECT: Application No. UP-639-04, Connie S. Bateman

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-407 of the York County Zoning Ordinance, to authorize a 484-square foot accessory apartment on the second floor of a proposed detached 2-car garage. The proposed garage will be situated on approximately 0.22 acre of a yet to be subdivided portion of residential property located at 109 Paradise Point Road (Route 750), which is adjacent to the applicant's principal dwelling at 107 Paradise Point Road (0.58-acre) and which the applicant proposes to incorporate into the boundaries of her lot. Both properties are further identified as Assessor's Parcel Nos. 25K-(2)-5 and 25K-(2)-4, respectively.

DESCRIPTION

- Property Owner: Connie S. Bateman (107 Paradise Point Road), contract purchaser from Robert Green (109 and 111 Paradise Point Road)
- Location: 107 & a portion of 109 Paradise Point Road
- Area: 0.58 acre (107 Paradise Point Rd.) & ~0.22 acre (109 Paradise Point Rd.)
- Frontage: Once the lots are incorporated there will be 146 feet on Paradise Point Road (Route 750) and 146.15 feet on Walters Lane (private).
- Utilities: Public water and sewer currently serve the property and the apartment would be required to connect.
- Topography: Flat at rear of lot with slight slope toward Paradise Point Road.
- 2015 Land Use Map Designation: Low-Density Residential
- Zoning Classification: RR - Rural Residential
EMA – Environmental Management Area Overlay
FMA – Floodplain Management Area Overlay
- Existing Development: Single family detached home (107 Paradise Point Road) and undeveloped lot (portion of 109 Paradise Point Road)

- Surrounding Development:
 - North: Single Family Detached Residential
 - East: Single Family Detached Residential and undeveloped lot
 - South: Single Family Detached Residential
 - West: Walters Lane (private) and Single Family Detached Residential
- Proposed Development: Detached accessory apartment in conjunction with a single-family detached dwelling.

CONSIDERATIONS/CONCLUSIONS

1. Accessory apartments are permitted as a matter of right in the RR zoning district; however, because the proposed accessory apartment (484 square feet) will be in a detached structure a Special Use Permit is required as prescribed in Section 24.1-407(b)(2) of the Zoning Ordinance.
2. Performance standards for accessory apartments are set forth in Section 24.1-407 of the Zoning Ordinance. These limit the maximum number of accessory apartments to one per single-family detached dwelling, limit the number of bedrooms to one, require adequate provisions for off-street parking, require occupancy only by family members or guests of the occupant of the principal dwelling, and prohibit the apartment from being rented separate from the principal dwelling. These standards have been included as conditions in the approving resolution.
3. The applicant is proposing to construct a detached 2-car garage with an accessory apartment on the second floor that would serve as a living area for a family member (Ms. Bateman's son). The garage and apartment are proposed to be accessed from Walters lane (private). The downstairs of the garage will be used primarily for vehicle storage. The proposed apartment would include a living room with a small deck, a dining room, bedroom, kitchen area, and bathroom (see attached sketch plans). The outside stairwell entry to the unit will not have direct access to the downstairs garage area. According to the applicant's current building plans, the total area of the accessory apartment will not exceed 484 square feet, which represents approximately 30% of the size of the principal dwelling. The principal dwelling is approximately 1,616 square feet in floor area.
4. The use permit request proposes to place the detached garage on an adjoining lot of approximately 0.22-acre. To be considered a detached accessory structure the garage must be located on a lot with a principal dwelling. Therefore, to construct the garage, Ms. Bateman will be required to consolidate her lot at 107 Paradise Point Road with the 0.22-acre adjacent lot at 109 Paradise Point Road, as shown in the plat of the property. In addition, so as to not leave a more nonconforming lot, due to the Rural Residential district's lot size requirement (1 acre), Mr. Green will

be required to consolidate his lot at 111 Paradise Point Road with the remaining portion of 109 Paradise Point Road. The subdivision to consolidate the three lots into two must be completed before the Special Use Permit would become effective and any building permits would be issued. The subdivision requirement has been included as a condition in the approving resolution. However, it should be noted that approval of the use permit does not in any way obligate the County to approve the subdivision as conceptualized.

5. The principal structure at 107 Paradise Point Road was connected to the County's vacuum sewer system on May 18, 2000. The proposed detached garage with accessory apartment will be required to connect to the existing sewer system.
6. The properties are located within the Environmental Management Area (EMA) overlay. The eastern boundaries are partially located within the Chesapeake Bay Resource Protection Area and both properties are located wholly in the Resource Management Area. Any proposed structure will be required to comply with all requirements set forth within Section 24.1-372 of the Zoning Ordinance.
7. The principal structure at 107 Paradise Point Road is also partially within the 100-year flood zone, which covers approximately 50% of the 109 Paradise Point Road lot. Structures proposed to be built in the 100-year flood zone are required to meet requirements set forth under Section 24.1-373 of the Zoning Ordinance. The 500-year flood zone wholly encompasses the structure at 107 Paradise Point Road and approximately 35% of the property at 109 Paradise Point Road. However, the proposed location of the detached 2-car garage appears to be outside of the 500-year flood zone area.
8. Property within the Village Green subdivision is not subject to homeowners' covenants nor does it fall under the jurisdiction of an established homeowners' association. Regardless of any covenants that may be deeded, the County must evaluate the accessory apartment use within the context of the Zoning Ordinance and its standards. The County cannot be a party to the enforcement of private covenants and the approval of a Special Use Permit will not relieve the applicant of any responsibilities for compliance with any such covenants.

RECOMMENDATION

Staff is of the opinion that the subject parcel can accommodate the proposed accessory apartment with no adverse impacts on adjacent properties or County infrastructure. In addition, staff is confident that the proposed conditions limiting the maximum number of accessory apartments to one per single-family detached dwelling, limiting the number of bedrooms to one, requiring adequate provisions for off-street parking and occupancy only by family members or guests of the occupant of the principal dwelling, and prohibiting the apartment from being rented separate from the principal dwelling are consistent with the intent of the accessory apartment provisions of the Zoning Ordinance. Furthermore, the additional conditions placed in the attached resolution for consolidation of the lots and conformance with the EMA and FMA requirements are in harmony with York County's vision for protecting its natural areas. Therefore, staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution No. PC04-16.

EWA

Attachments:

- Zoning Map
- Survey Plat
- Building Floor Plans
- Proposed Resolution No. PC04-16